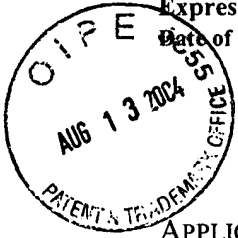


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Attorney Docket No. 15966-552 CON-S8 (CURA 52 CON-S8)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

APPLICANTS: Shimkets, *et al.*

SERIAL NUMBER: 09/977,418

EXAMINER: Misook Yu, Ph.D.

FILING DATE: October 15, 2001

ART UNIT: 1642

FOR: Novel Nucleic Acid Sequences Encoding Human Breast Tumor-Associated Protein 47-Like Polypeptides

MAIL STOP AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

August 13, 2004

Boston, Massachusetts

PRELIMINARY AMENDMENT AND RESPONSE TO JULY 13, 2004 RESTRICTION REQUIREMENT

This Preliminary Amendment and Response is submitted in response to the Restriction Requirement mailed July 13, 2004 in the above-identified patent application. With no extension, these documents are due on or before August 13, 2004. Thus, Applicants believe no additional fees are due in connection with this filing. However, the Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 15966-552 CON-S8 (CURA 52 CON-S8).

Prior to examination of the above-identified application, please amend the application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 4 of this paper.

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

1. (Currently Amended) An isolated nucleic acid comprising ~~any one of the following:~~
 - (a) — a nucleic acid sequence encoding a polypeptide of SEQ ID NO: 8; ~~¶~~
 - (b) — ~~a nucleic acid sequence at least 90% identical to the nucleic acid sequence of (a) above;~~
 - (c) — ~~a nucleic acid encoding a polypeptide wherein the polypeptide has conservative amino acid substitutions to the polypeptide of SEQ ID NO: 8; or~~
 - (d) — ~~a fragment of the nucleic acid sequence of (a), (b) or (c) above wherein the fragment comprises at least 20 nucleotides.~~
2. (Original) The nucleic acid of claim 1, wherein said nucleic acid is selected from the group consisting of DNA and RNA.
3. (Currently Amended) The nucleic acid of claim 1, wherein said nucleic acid comprises an open reading frame that encodes a polypeptide of SEQ ID NO: 8 ~~or its complement, or a mutant or variant thereof.~~
4. (Currently Amended) The nucleic acid of claim 1 wherein said nucleic acid encodes a polypeptide ~~comprising~~ consisting of an amino acid of SEQ ID NO: 8.
5. (Currently Amended) The nucleic acid of ~~claim 3~~ claim 1, wherein said nucleic acid encodes a mature form of a polypeptide comprising an amino acid of SEQ ID NO: 8, ~~a mutant or variant thereof.~~
6. (Cancelled)
7. (Currently Amended) ~~An oligonucleotide~~ A nucleic acid sequence that is complementary to ~~and hybridizes under stringent conditions with~~ the nucleic acid of claim 1.
8. – 9. (Cancelled)

10. (Original) A vector comprising the nucleic acid of claim 1.
11. (Currently Amended) ~~A cell~~ An isolated cell comprising the vector of claim 10.
12. (Currently Amended) The cell of claim 11, wherein said cell is a prokaryotic or eukaryotic cell comprising the nucleic acid sequence ~~which is SEQ ID NO: 7, its complement, or a mutant or variant thereof.~~
13. (Currently Amended) A ~~pharmaceutical~~ composition comprising the nucleic acid of claim 1 and a pharmaceutically acceptable carrier.
14. (Original) A process for producing a polypeptide encoded by the nucleic acid of claim 1, said process comprising:
 - a) providing the cell of claim 11;
culturing said cell under conditions sufficient to express said polypeptide; and
 - b) recovering said polypeptide,thereby producing said polypeptide.
15. (Currently Amended) The process of claim 14, wherein said cell is a prokaryotic or eukaryotic cell.
16. – 17. (Cancelled)

REMARKS

In response to the Restriction Requirement dated July 13, 2004, Applicants elect the invention of Group I (claims 1-15, drawn to nucleic acid, pharmaceutical, vector, cell, and process of making protein) without traverse.


Applicants are filing this Preliminary Amendment and Response in conjunction with a Petition Under 37 C.F.R. §1.48(b) along the appropriate fee under 37 C.F.R. §1.17(h) in order to delete those inventors who were correctly named in the instant application as filed, but are not inventors of the invention currently recited by the pending claims, as amended.

Upon entry of the present amendment, claims 1-5, 7 and 10-15 are pending. Claims 6, 8-9 and 16-17 have been cancelled without prejudice or disclaimer. Applicant reserves the right to prosecute that subject matter, as well as the originally presented claims, in continuing applications. Claims 1, 3-5, 7, 11-13 and 15 have been amended. Support for the amendments presented herein is found throughout the specification and claims as originally filed. Accordingly, no new matter has been added by the claim amendments presented herein.

CONCLUSION

On the basis of the foregoing amendment and remarks, Applicants respectfully submit, that the pending claims are in condition for allowance. If there are any questions regarding this amendment and/or these remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,


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